

REMARKS

Reconsideration in view of the foregoing amendments and following remarks is respectfully requested.

Examiner rejects claims 21, 46-48, 51-54, and 57-65 as being anticipated by Drasler USP 5,496,267. Examiner asserts that the reference discloses a water jet atherectomy device (FIG. 4) having a first tube 174 within a second tube, a jet body 161 with a jet emanator, at least one outflow orifice 170 and at least one inflow orifice 172. Examiner is incorrect. The flows are not even in the correct direction. The structure provided in FIG. 4 of '267 is different from the present invention, and does not provide the same function as the present invention, as further detailed below.

Examiner refers to item 170 as an "outflow orifice". Examiner is incorrect. Item 170 of '267 is defined as an evacuation port at column 7, line 7, so any flow through item 170 would be into evacuation lumen 172 and subsequently out of the body. Therefore, item 170 cannot be analogous to the outflow orifice of the present invention since the outflow orifice(s) of the present invention passes fluid out of the second lumen into the body vessel as cross stream jet(s), whereas item 170 of '267 has flow into the exhaust lumen for removal. Structurally, the '267 device is arranged so that the jet 160 drives debris inward through evacuation port 170, whereas the present invention is structurally arranged so that the jet(s) in combination with inflow orifice(s) create a region of elevated pressure in the second lumen and drive flow out of outflow orifice(s). Thus, item 170 of '267 is neither structurally or functionally equivalent to outflow orifice(s) of the present invention. The '267 device lacks an outflow orifice which is a required element of the present invention as taught and as claimed.

Examiner refers to item 172 as an "inflow orifice". Examiner is incorrect. Item 172 of '267 is defined as an evacuation lumen at column 7, line 6. The direction and orientation of fluid flow is not even the same: evacuation lumen 172 of '267 has particulate debris flowing in a distal-to-proximal direction along the evacuation lumen and subsequently out of the body, while inflow orifice(s) of the present invention have fluid passing from the body vessel into the second tube, some of which subsequently passes through outflow orifice(s) back into the body vessel. Thus, item 172 of '267 is not equivalent to inflow orifice(s) of the present invention.

In summary, the unique features, structures, and function of the present invention as claimed are not anticipated by or obvious from reading of Drasler USP 5,496,267. Applicants nevertheless have amended the independent claims to add structural language to further distinguish from the prior art. Applicants, therefore, request reconsideration of independent claims 21, 51 and 65 and their allowance along with the corresponding dependent claims.

Applicants acknowledge Examiner's withdrawal of claims 49, 50, 56, 66 and 67 as being drawn to a nonelected species. However, Applicants believe that claims 55 and 68-70 read on the elected species. The description of **FIGS. 18-19**, which illustrate the elected species E as designated by Examiner, includes the features claimed in claims 55 and 68-70, as follows. At page 46, lines 11-16, multiple jets as claimed in claim 55 are described. At page 44, lines 18-19, thrombus debris removal through separate means as claimed in claims 68 and 70 is described. Exhaust regulation means as claimed in claim 69 is cited at page 16, lines 13-22, and elsewhere and could be utilized with the elected species if a separate tubular means were provided for debris removal. Applicants, therefore, request reconsideration of claims 55 and 68-70.

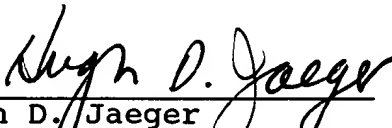
Claims 21, and 46-48, 51-55, 57-65 and 68-70 are drawn to a thrombectomy device and system. Claims 21, 51 and 65 have been amended to add structural language and further distinguish from the prior art. No new matter has been introduced.

If there are any further issues yet to be resolved to advance the prosecution of this patent application to issue, the Examiner is requested to telephone the undersigned counsel.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

HUGH D. JAEGER, P.A.



Hugh D. Jaeger
Registration No. 27,270
1000 Superior Blvd., Suite 302
Wayzata, MN 55391-1873
Telephone: 952-475-1880
Facsimile: 952-475-2930

05/18/2004

MYFILES\PLEAD\PL4459